

**268 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-26513-2015(O&M)

Date of decision: 27.03.2018

Ranjit Singh and another

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. G.S.Sirphikhi, Advocate
for the petitioners.

Ms. Samina Dhir, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for quashing of Kalendra under Section 182 IPC (Annexure P-2) in FIR No. 17 dated 13.06.2014 under Sections 323, 324, 148, 149 of IPC registered at Police Station Narot Jaimal Singh, Police District Pathankot, District Gurdaspur.

Learned counsel for the petitioners submits that petitioner No.1 Ranjit Singh is the complainant in FIR No.17, in which, the allegations against the accused persons were for causing injuries to him. Counsel for the petitioners further submits that after completion of the investigation, the police has submitted a cancellation report dated 08.12.2014, before the trial Court, after obtaining approval from the SSP. Later on, a Kalendra under Section 182 IPC was also filed against the petitioners vide Rapat No.23 dated 14.02.2015. Learned counsel for the petitioners submitted that the petitioners have already filed a criminal complaint (Annexure P-2) before the Illaqa Magistrate against the accused persons and in that complaint, the trial Court, vide order dated 16.05.2015 has summoned six accused persons, therefore, initiation of the proceedings under Section 182 IPC is not

maintainable.

Counsel for the petitioners has relied upon the judgment of this Hon'ble Court in **Shiv Kumar Grover and another vs. State of Punjab, 2013 (1) R.C.R. (Criminal) 57**, wherein, it has been held that once the complainant has filed a private complaint and the accused persons have been summoned, it cannot be said that the information supplied by such persons was false and therefore, the proceedings under Section 182 IPC are liable to be quashed. The operative part of the judgment is reproduced as under:-

“7. An Identical question came to be decided by this Court in case **Kehar Singh v. State of Punjab, 2012 (1) RCR (Criminal) 458**, wherein, it was ruled (Paras 14 & 15) as under:-

14. *There is another aspect of the matter which can be viewed from a different angle. It is not a matter of dispute that the petitioner has already filed a complaint in regard to the same incident and after taking into consideration the preliminary evidence, the trial Magistrate has summoned the accused vide summoning order (Annexure P-2). That means, the subject matter of the case is sub-judiced and the trial Magistrate is seized of the matter, relatable to truth or otherwise of the version projected by the petitioner in this context. In that eventuality, the proceedings under Section 182 IPC are not legally maintainable.*

15. *An identical question arose before this Court in case Ramesh Chand v. State of Haryana, 2006 (4) RCR (Criminal) 718. Having considered the matter deeply, it was ruled that once the petitioner has filed a private complaint and the accused have been summoned, then it cannot be said that the information supplied by the petitioner was false. Therefore, the argument of the learned counsel for the petitioner that in view of the pendency of complaint and*

summoning order in respect of the same offence, the proceedings under Section 182 IPC against the petitioner cannot be permitted to continue, has considerable force and the contrary arguments of the learned state Counsel 'stricto sensu' deserve to be and are hereby repelled under the present set of circumstances. The observations in the aforesaid judgment "mutatis-mutandis" are applicable to the facts and circumstances of this case and are the complete answer to the problem in hand."

Similar view has been taken by this Court in ***Ramesh Chand Vs. State of Haryana, 2006 (4) RCR (Criminal), 718.***

Reply by way of affidavit of Deputy Superintendent of Police (Rural), Pathankot has been filed wherein, it is stated that the police, on investigation, has recommended the cancellation of the FIR, which has been approved by Senior Superintendent of Police on 08.12.2014 and therefore, the proceedings under Section 182 IPC has been initiated against the petitioners.

After hearing counsel for the parties, I find merit in the present petition.

It is not disputed that the petitioners got the aforesaid FIR registered with the allegations that he was given beatings by the accused persons.

The police, however, after investigation prepared a cancellation report, which was approved by the Senior Superintendent of Police and was submitted before the trial Court. The petitioners contested the same and filed a criminal complaint (Annexure P-2) in which, after recording preliminary evidence, the trial Court, vide order dated 16.05.2015 (Annexure P-4), has summoned six of the accused persons. Therefore, in

view of the judgment of this Court in **Shiv Kumar's case** (Supra) and **Ramesh Chand's case** (Supra), the initiation of proceedings under Section 182 IPC against the petitioners is not maintainable.

Accordingly, this petition is allowed. The Kalendra (Annexure P-2) under Section 182 IPC and its subsequent proceedings, are hereby quashed.

(ARVIND SINGH SANGWAN)
JUDGE

27.03.2018
Hemlata

Whether speaking/reasoned	Yes
Whether reportable	Yes